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भाग II—खण्ड 2

PART II—Section 2

प्राधिकार से प्रकाशित

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

LOK SABHA

The following Bills were introduced in the Lok Sabha on the 13th March, 1997:—

BILL No. 38 OF 1997.

A Bill further to amend the Indian Electricity Act, 1910 *and the Electricity (Supply) Act,* 1948.

BE it enacted by Parliament in the Forty-eighth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. *(1)* This Act may be called the Electricity Laws (Amendment) Act, 1997. Short title and commencement.

(2) It shall be deemed to have come into force on the 24th day of January, 1997.

CHAPTER II

AMENDMENTS TO THE INDIAN ELECTRICITY ACT,1910

Amendment of section 2.

2. In the Indian Electricity Act, 1910 (hereafter in this Chapter referred to as the Electricity Act), in section 2,— 9 of 1910.

(i) after clause *(b)*, the following clause shall be inserted, namely:—

'(ba) "area of transmission" means the area within which alone a transmission licensee is for the time being authorised by his license to transmit energy;';

(ii) after clause *(g)*, the following clauses shall be inserted, namely:—

'(ga) "inter-State transmission" means transmission from one State to another State;

(gb) "intra-State transmission" means transmission within the State;';

(iii) after clause *(m)*, the following clauses shall be inserted, namely:—

'(ma) "transmission license" means a license granted under Part IIA to transmit energy;

(mb) "transmission licensee" means any person who holds a transmission license;

(mc) "transmit" means conveyance of energy by means of main transmission lines and the expression "transmission" shall be construed accordingly;'.

Insertion of new Part IIA.

3. After Part II of the Electricity Act, the following Part shall be inserted, namely:—

'PART IIA

TRANSMISSION OF ENERGY

Grant of transmission license.

27A. *(1)* The State Government or any authority notified by that Government may, on application made in the prescribed form and on payment of the prescribed fee, if any, grant a transmission license, subject to such terms and conditions as may be prescribed, to any person for intra-State transmission of energy in the area of transmission within the State.

(2) The Central Government or any authority notified by that Government may, on application made in the prescribed form and on payment of the prescribed fee, if any, grant a transmission license, subject to such terms and conditions as may be prescribed, to any person for inter-State transmission of energy in the area of transmission.

(3) The provisions of sections 12 to 19 (both inclusive) and clauses XIV to XVII (both inclusive) of the Schedule shall, as far as may be, apply to a transmission license subject to the modifications that references to "license" and "licensee" shall be construed as references to "transmission license" and "transmission licensee", respectively.'.

Amendment of section 30.

4. In section 30 of the Electricity Act, in sub-section *(1)*, after the word "licensee", the words ", transmission licensee" shall be inserted.

Amendment of section 37

5. In section 37 of the Electricity Act, in sub-section *(2)*,—

(i) in clause *(a)*, for the word "licenses", the words "licenses and transmission licenses" shall be substituted;

(ii) after clause *(c)*, the following clause shall be inserted, namely:—

"*(ca)* prescribe the terms and conditions for grant of transmission license;".

Amendment of section 51.

6. In section 51 of the Electricity Act, for the words "licensee or any other person engaged in the business of supplying energy", the words "licensee, transmission licensee or any other person engaged in the business of transmission or supplying energy" shall be substituted.

CHAPTER III

AMENDMENTS TO THE ELECTRICITY (SUPPLY) ACT, 1948

Amendment of section 2.

54 of 1948.

7. In the Electricity (Supply) Act, 1948 (hereafter in this Chapter referred to as the Supply Act), in section 2, in clause *(12)*, for the word "distribution", the words "distribution or transmission of energy" shall be substituted.

Substitution of new section for section 41.

8. For section 41 of the Supply Act, the following section shall be substituted, namely:—

Use of transmission lines.

"41. *(1)* Where the Board or a Generating Company considers it necessary to use for any of its purposes any transmission lines or main transmission lines of a licensee, the Board or the Generating Company shall have power to use such lines to the extent to which the capacity thereof is or thereafter remains surplus to the requirements of the licensee for the transmission of electricity, for such time and upon such terms as may be agreed with a licensee and on payment of charges calculated in accordance with the provisions of the Fifth Schedule.

(2) A transmission licensee may enter into an agreement with any Board, Generating Company, bulk licensee, supply licensee or any other transmission licensee for the transmission or supply of electricity.".

Amendment of section 55.

9. In section 55 of the Supply Act,—

(a) in sub-section *(1)*, for the words "Every licensee shall comply with", the words "Every licensee or transmission licensee for intra-State transmission shall comply with" shall be substituted;

(b) in sub-section *(2)*, for the words "Every licensee or Generating Company", the words "Every licensee, transmission licensee or Generating Company" shall be substituted;

(c) after sub-section *(3)*, the following sub-section shall be inserted, namely:—

"*(4)* The Central Government in the case of Regional Load Despatch Centres and the State Government in the case of load despatch centres at the

State level, may, by notification, specify the fees and charges to be paid to a person to whom the load despatch functions are entrusted by the Central Government or the State Government, as the case may be.".

CHAPTER IV

MISCELLANEOUS

Repeal and saving.

10. (*1*) The Electricity Laws (Amendment) Ordinance, 1997 is hereby repealed. Ord. 8 of 1997.

(2) Notwithstanding such repeal, anything done or any action taken under the Indian Electricity Act, 1910 and the Electricity (Supply) Act, 1948, as amended by the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of those Acts, as amended by this Act. 9 of 1910. 54 of 1948.

STATEMENT OF OBJECTS AND REASONS

With a view to encourage transmission of electricity as an independent activity and to widen the scope of private sector participation in transmission projects, the Electricity Laws (Amendment) Ordinance, 1997 was promulgated amending the Indian Electricity Act, 1910 and the Electricity (Supply) Act, 1948.

2. The amendment provides for grant of transmission license by the Central Government in the case of inter-State transmission of energy and by the State Government in the case of intra-State transmission of energy in the area of transmission to be specified in the license.

3. It also makes some consequential changes in the aforesaid Acts to bring within its scope the transmission of electricity as an activity independent of generation and distribution.

4. The Bill seeks to replace the above Ordinance.

NEW DELHI; S. VENUGOPALACHARI.

The 5th March, 1997.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Sub-clause (1) of clause 27A of the Bill empowers the State Government or any authority notified by the Central Government to prescribe the form of application, fee to be deposited along with the application and the terms and conditions on the basis of which a transmission license for transmission of energy within the State may be granted. Sub-clause (2) of the said clause empowers the Central Government or another authority notified by that Government to prescribe the form of application and the fee to be deposited along with the application and the terms and conditions on the basis of which transmission license for inter-State transmission of energy may be granted.

2. Sub-clause (2) of clause 37 empowers the Central Electricity Board to frame the rules for specifying the terms and conditions for grant of transmission license.

3. Sub-clause (4) of clause 55 empowers the Central Government in respect of Regional Load Despatch Centres and the State Government in respect of load despatch centres at the State level to specify, by a notification, the fee and the charges to be paid to a person to whom the load despatch functions have been entrusted.

BILL NO. 37 OF 1997

A Bill further to amend the Income-tax Act, 1961.

BE it enacted by Parliament in the Forty-eighth Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Income-tax (Amendment) Act, 1997.

(*2*) Save as otherwise provided in this Act, sections 4 to 10 shall be deemed to have come into force on the 1st day of January, 1997.

Amendment of section 54EA.

43 of 1961.

2. In section 54EA of the Income-tax Act, 1961 (hereinafter referred to as the Income-tax Act), with effect from the 1st day of October, 1996,—

(*a*) in sub-section (*1*), for the words, brackets, figures and letter "bonds, debentures or units of mutual fund referred to in clause *(23D)* of section 10", the words, brackets, figures and letter "bonds, debentures, shares of a public company or units of any mutual fund referred to in clause (*23D*) of section 10" shall be substituted and shall be deemed to have been substituted;

(*b*) for the words "specified bonds or debentures", wherever they occur, the words "specified securities" shall be substituted and shall be deemed to have been substituted.

Amendment of section 80G.

3. In section 80G of the Income-tax Act, with effect from the 1st day of April, 1997,—

(*a*) in sub-section (*1*), in clause (*i*), after the word, brackets, figures and letters "sub-clause *(iiihd)*", the words, brackets, figures and letters "or sub-clause *(iiihe)*" shall be inserted;

(*b*) in sub-section (*2*), in clause (*a*), after sub-clause (*iiihd*), the following sub-clause shall be inserted, namely:—

"(*iiihe*) the National Illness Assistance Fund; or".

Amendment of section 158BC.

4. In section 158BC of the Income-tax Act, for clause (*a*) the following shall be substituted, namely:—

"(*a*) the Assessing Officer shall—

(*i*) in respect of search initiated or books of account or other documents or any assets requisitioned after the 30th day of June, 1995 but before the 1st day of January, 1996 serve a notice to such person requiring him to furnish within such time not being less than fifteen days;

(*ii*) in respect of search initiated or books of account or other documents or any assets requisitioned on or after the 1st day of January, 1997 serve a notice to such person requiring him to furnish within such time not being less than fifteen days but not more than forty-five days,

as may be specified in the notice a return in the prescribed form and verified in the same manner as a return under clause (*i*) of sub-section (*1*) of section 142, setting forth his total income including the undisclosed income for the block period:

Provided that no notice under section 148 is required to be issued for the purpose of proceeding under this Chapter:

Provided further that a person who has furnished a return under this clause shall not be entitled to file a revised return;"

Amendment of section 158BE.

5. In section 158BE of the Income-tax Act, for sub-sections (*1*) and (*2*), the following sub-sections shall be substituted, namely:—

"(*1*) The order under section 158BC shall be passed—

(*a*) within one year from the end of the month in which the last of the authorisations for search under section 132 or for requisition under section 132A, as the case may be, was executed in cases where a search is initiated or books of account or other documents or any assets are requisitioned after the 30th day of June, 1995 but before the 1st day of January, 1997;

(*b*) within two years from the end of the month in which the last of the authorisations for search under section 132 or for requisition under section 132A, as the case may be, was executed in cases where a search is initiated or books of account or other documents or any assets are requisitioned on or after the 1st day of January, 1997.

(*2*) The period of limitation for completion of block assessment in the case of the other person referred to in section 158BD shall be—

(*a*) one year from the end of the month in which the notice under this Chapter was served on such other person in respect of search initiated or books of account or other documents or any assets requisitioned after the 30th day of June, 1995 but before the 1st day of January, 1997; and

(*b*) within two years from the end of the month in which the notice under this Chapter was served on such other person in respect of search initiated or books of account or other documents or any assets are requisitioned on or after the 1st day of January, 1997.".

Insertion of new section 158BFA. Levy of interest and penalty in certain cases.

6. After section 158BF of the Income-tax Act, the following section shall be inserted, namely:—

"158BFA. (*1*) Where the return of total income including undisclosed income for the block period, in respect of search initiated under section 132 or books of account, other document or any assets requisitioned under section 132A on or after the 1st day of January, 1997 as required by a notice under clause (*a*) of section 158BC, is furnished after the expiry of the period specified in such notice, or is not furnished, the assessee shall be liable to pay simple interest at the rate of two per cent. of the tax on undisclosed income, determined under clause (*c*) of section 158BC, for every month or part of a month comprised in the period commencing on the day immediately following the expiry of the time specified in the notice, and—

(*a*) where the return is furnished after the expiry of the time aforesaid, ending on the date of furnishing the return; or

(*b*) where no return has been furnished, on the date of completion of assessment under clause (*c*) of section 158BC.

(*2*) The Assessing Officer or the Commissioner (Appeals), in the course of any proceedings under this Chapter, may direct that a person shall pay by way of penalty a sum which shall not be less than the amount of tax leviable but which shall not exceed three times the amount of tax so leviable in respect of the undisclosed income determined by the Assessing Officer under clause (*c*) of section 158BC:

Provided that no order imposing penalty shall be made in respect of a person if—

(*i*) such person has furnished a return under clause (*a*) of section 158BC;

(*ii*) the tax payable on the basis of such return has been paid or, if the assets seized consist of money, the assessee offers the money so seized to be adjusted against the tax payable;

(*iii*) evidence of tax paid is furnished along with the return; and

(*iv*) an appeal is not filed against the assessment of that part of income which is shown in the return:

Provided further that the provisions of the preceding proviso shall not apply where the undisclosed income determined by the Assessing Officer is in excess of the income shown in the return and in such cases the penalty shall be imposed on that portion of undisclosed income determined which is in excess of the amount of undisclosed income shown in the return.

(*3*) No order imposing a penalty under sub-section (*2*) shall be made—

(*a*) unless an assessee has been given a reasonable opportunity of being heard;

(*b*) by the Assistant Commissioner or the Assistant Director, as the case may be, where the amount of penalty exceeds twenty thousand rupees except with the previous approval of the Deputy Commissioner or the Deputy Director, as the case may be;

(*c*) in a case where the assessment is the subject-matter of an appeal to the Commissioner (Appeals) under section 246 or an appeal to the Appellate Tribunal under section 253, after the expiry of the financial year in which the proceedings, in the course of which action for the imposition of penalty has been initiated, are completed, or six months from the end of the month in which the order of the Commissioner (Appeals) or, as the case may be, the Appellate Tribunal is received by the Chief Commissioner or the Commissioner, whichever period expires later;

(*d*) in a case where the assessment is the subject-matter of revision under section 263, after the expiry of six months from the end of the month in which such order of revision is passed;

(*e*) in any case other than those mentioned in clause (*c*) and (*d*), after the expiry of the financial year in which the proceedings, in the course of which action for the imposition of penalty has been initiated, are completed, or six months from the end of the month in which action for imposition of penalty is initiated, whichever period expires later;

(*f*) in respect of search initiated under section 132 or books of account, other documents or any assets requisitioned under section 132A, after the 30th day of June, 1995 but before the 1st day of January, 1997.

Explanation—In computing the period of limitation for the purpose of this section,—

(*i*) the time taken in giving an opportunity to the assessee to be re-heard under the proviso to section 129;

(*ii*) the period during which the immunity granted under section 245H remained in force; and

(*iii*) the period during which the proceedings under sub-section (*2*) are stayed by an order or injunction of any court,

shall be excluded.

(*4*) An Income-tax authority on making an order under sub-section (*2*) imposing a penalty, unless he is himself an Assessing Officer, shall forthwith send a copy of such order to the Assessing Officer.".

Substitution of new section for section 158BG.

7. For section 158BG of the Income-tax Act, the following section shall be substituted, namely:—

Authority competent to make block assessment.

"158BG. The order of assessment for the block period shall be passed by an Assessing Officer not below the rank of an Assistant Commissioner or an Assistant Director, as the case may be:

Provided that no such order shall be passed without the previous approval of—

(*a*) the Commissioner or Director, as the case may be, in respect of search initiated under section 132 or books of accounts, other documents or any assets requisitioned under section 132A after the 30th day of June, 1995 but before the 1st day of January, 1997;

(*b*) the Deputy Commissioner or Deputy Director, as the case may, in respect of search initiated under section 132 or books of accounts, other documents or any assets requisitioned under section 132A, on or after the 1st day of January, 1997.".

Amendment of section 246.

8. In section 246 of the Income-tax Act, in sub-section (*2*), after clause (*d*), the following clauses shall be inserted, namely:—

"(*da*) an order of assessment made by an Assessing Officer under clause (*c*) of section 158BC, in respect of search initiated under section 132 or books of account, other documents or any assets requisitioned under section 132A, on or after the 1st day of January, 1997;

(*db*) an order imposing a penalty under sub-section (*2*) of section 158BFA;".

Amendment of section 253.

9. In section 253 of the Income-tax Act, in sub-section (*1*), for clause (*b*), the following clause shall be substituted, namely:—

"(*b*) an order passed by an Assessing Officer under clause (*c*) of section 158BC, in respect of search initiated under section 132 or books of account, other documents or any assets requisitioned under section 132A, after the 30th day of June, 1995, but before the 1st day of January, 1997; or".

Insertion of new section 276CCC.

10. After section 276CC of the Income-tax Act, the following section shall be inserted, namely:—

Failure to furnish return of income in search cases.

"276CCC. If a person wilfully fails to furnish in due time the return of total income which he is required to furnish by notice given under clause (*a*) of section 158BC, he shall be punishable with imprisonment for a term which shall not be less than three months but which may extend to three years and with fine:

Provided that no person shall be punishable for any failure in this section in respect of search initiated under section 132 or books of accounts, other documents or any assets requisitioned under section 132A, after the 30th day of June, 1995 but before the 1st day of January, 1997.".

Repeal and saving.

Ord. 32 of 1996.

11. (*1*) The Income-tax (Second Amendment) Ordinance, 1996 is hereby repealed.

(*2*) Notwithstanding the repeal of the Income-tax (Second Amendment) Ordinance, 1996, anything done or any action taken under the Income-tax Act, as amended by the said Ordinance shall be deemed to have been done or taken under the Income-tax Act, as amended by this Act.

STATEMENTS OF OBJECTS AND REASONS

The Finance Act, 1995 introduced a new Chapter XIV-B in the Income-tax Act, 1961 so as to provide a new scheme of assessment of undisclosed income determined in respect of searches initiated on or after the 1st day of July, 1995. Under this scheme the undisclosed income detected as a result of search initiated after 30th June, 1995 was assessed separately as the income of a block period which consists of a period of ten previous years prior to the previous year in which the search was conducted and also the period of current previous year upto the date of search. The undisclosed income was taxed at a flat rate of 60% and no penalty under sections 271(1)(c), 271A or 271B or interest under sections 234A, 234B or 234C was leviable. It was also provided that the order of assessment for the block period had to be passed within one year from the end of the month in which last of the search authorisations was executed. In order to enhance the deterrent effect of searches and to enable better assessment of such cases, it was proposed to amend the provisions of Chapter XIV-B by an Ordinance.

2. The Finance (No. 2) Act, 1996, amended the provisions of section 80G of the Income-tax Act by inserting clause (iiihb) in sub-section (2) so as to provide for 100% deduction for donations made to the funds established by the State Governments to provide medical relief to the poor. Similar benefit was proposed to be extended to "National Illness Assistance Fund" constituted by the Central Government. Any amount of donation to this fund would be eligible for 100% deduction from the total income of the donor at the time of computation of his total income.

3. Under the provisions of section 54EA of the Income-tax Act, 1961 long-term capital gains were exempt from Income-tax, if the whole or any part of the net sale consideration was invested in bonds, debentures or units of any mutual funds. However, investment in share did not qualify for exemption from long term capital gains under section 54EA. To inject more liquidity into the capital markets, it was proposed to include shares of a public company in the list of securities, investment in which would qualify for exemption under section 54EA.

4. Whereas, Parliament was not in session and the amendment to the provisions of the Income-tax Act as mentioned above were to be carried out immediately, the Income-tax (Second Amendment) Ordinance, 1996 (No. 32 of 1996) was promulgated by the President on the 31st December, 1996.

5. The Bill seeks to replace the said Ordinance.

NEW DELHI; P. CHIDAMBARAM.

The 7th February, 1997.

PRESIDENT'S RECOMMENDATION UNDER ARTICLES 117 AND 274 OF THE CONSTITUTION OF INDIA

[Copy of letter No. DTLA/1/96-TPL, dated the 18th February, 1997 from Shri P. Chidambaram, Minister of Finance to the Secretary-General, Lok Sabha.]

The President, having been informed of the subject matter of the proposed Bill to amend the Income-tax Act, 1961, recommends under clause (1) of article 117 and clause (1) of article 274 of the Constitution of India, introduction of the above Bill in Lok Sabha.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 2 of the Bill seeks to amend section 54EA of the Income-tax Act relating to capital gain on transfer of long term capital assets not to be charged in the case of investment in a specified bonds or debenture. At present the capital gain arising out of a long term capital assets, shall be exempt from income-tax if the net consideration is invested in such bonds or debentures or units as are specified by the Board. It is proposed to empower the Board to specify by notification in the Official Gazette, the shares of a public company in which the investment of net consideration realised from transfer of a long term capital asset has to be made in order to qualify for exemption from income-tax under the head "capital gains".

2. The delegation of legislative power is, therefore, of normal character.

Memorandum explaining the modifications in the Bill to replace the Income Tax (Second Amendment) Ordinance, 1996.

The Income-tax (Amendment) Bill, 1997 which seeks to replace the Income-tax (Second Amendment) Ordinance, 1996 proposes to make the following modifications of purely clarificatory nature,—

Clauses 4, 6, 7 and 10 of the Bill have been slightly modified to clearly bring out the intention that the proposed provisions will be applicable in respect of search initiated under section 132 or books of account, other documents or any asset requisitioned under section 132A on or after the 1st day of January, 1997 only.

S. GOPALAN,
Secretary-General.

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